

APPEAL NO. 022202
FILED OCTOBER 10, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 13, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 13th, 14th, and 15th compensable quarters. On appeal, the claimant contends that this determination is against the great weight of the evidence. The respondent (carrier) urges affirmance.

DECISION

We affirm.

Whether the claimant satisfied the good faith requirement for SIBs eligibility and whether his unemployment was a direct result of his impairment were questions of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994; Texas Workers' Compensation Commission Appeal No. 94533, decided June 14, 1994. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). The evidence sufficiently supports the hearing officer's findings that the claimant's unemployment during the qualifying periods in question was not a direct result of the compensable injury, that the claimant did not establish that he had no ability to work, and that he did not make a good faith job search effort. We note that although the claimant urges that the hearing officer erred in not making a specific finding of fact that the claimant had some ability to work during the qualifying periods, this is implicit in Finding of Fact No. 6 and the conclusion that the claimant is not entitled to SIBs. We perceive no error in the determination that the claimant is not entitled to SIBs for the 13th, 14th, and 15th compensable quarters.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**WILLIAM PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge